



PATENT  
Attorney Docket No.: AVALUC-01800

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Group Art Unit: 2153
Louis Bouchard	)	Examiner:
Serial No.: 09/842,747	)	<b>PETITION UNDER 37 C.F.R. § 1.181</b>
Filed: April 25, 2001	)	<b>AND 35 U.S.C. §122(b)(2)(B)(iii) FOR</b>
For: <b>MAILBOX ACCESS MECHANISM</b>	)	<b>ACCEPTANCE OF LATE NOTICE OF</b>
<b>OVER LOW-BANDWIDTH, HIGH-</b>	)	<b>FOREIGN FILING</b>
<b>LATENCY WIRELESS</b>	)	
<b>NETWORKS</b>	)	162 N. Wolfe Road
	)	Sunnyvale, California 94086
	)	(408) 530-9700

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RECEIVED**  
JUN 09 2003

Sir:

The applicants hereby petition under 37 C.F.R. § 1.137, 37 C.F.R. § 1.181 AND 35 U.S.C. §122(b)(2)(B)(iii) for acceptance of late notice of foreign filing. It was unintentional that this notice of foreign filing was filed late. A petition fee under 37 C.F.R. § 1.17(m) of \$1300.00 is also enclosed.

OFFICE OF PETITIONS

The American Inventors Protection Act of 1999 (Public Law 106-113) initiated provisions for eighteen-month publication of applications under 35 U.S.C. § 122(b). An applicant can request non-publication of an application, if an application is not foreign filed. 35 U.S.C. §122(b)(2)(B)(i) However, it is specified that if an applicant has made a request for non-publication and then files a corresponding foreign application, then the Director of the Patent and Trademark Office (USPTO) must be notified within 45 days after the date of such foreign or international application. 35 U.S.C. §122(b)(2)(B)(iii) The applicant may rescind a request for non-publication. 35 U.S.C. §122(b)(2)(B)(ii) The initial form (PTO/SB/36) published by the USPTO only included the rescission of the non-publication request. The USPTO also published a presentation entitled "Implementation of the American Inventors Protection Act of 1999 (Public Law 106-113) and the Patent Business Goals," April 23, 2001, which is still downloadable on the USPTO website, which includes the original form (PTO/SB/36) with only the rescission of the non-publication request language. This original form (PTO/SB/36) did not include a notice of foreign filing. A Pre-OG Notice entitled "Reminder That Rescission Of A

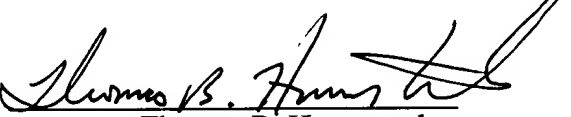
Non-publication Request Is Not Itself A Notice Of Foreign Filing," published on the USPTO website, then clarified the current position of the USPTO that a request to rescind a request for Non-publication is not a notice of foreign filing. This Pre-OG Notice includes reference to a new form (PTO/SB/36) which includes both the request to rescind and a notice of foreign filing, with a caution that if a notice of foreign filing is not filed within 45 days of foreign or international filing, then the application is considered abandoned.

In the present application, a Request for Non-Publication was filed with the original application papers on April 25, 2001. An International application was then filed for the invention of this application on April 4, 2002. On April 15, 2002, within 45 days of the foreign filing, a Request to Rescind the Non-Publication Request was filed in this application. When this Request to Rescind was filed, Applicant's attorneys used the language from the original USPTO form (PTO/SB/36), which included only the rescission of the non-publication request. It was not until reading the Pre-OG Notice entitled "Reminder That Rescission Of A Non-publication Request Is Not Itself A Notice Of Foreign Filing," published on the USPTO website, that Applicant's attorneys realized that the USPTO position was that a request to rescind within 45 days of foreign filing, was not a notice of foreign filing.

Upon discovering the changed USPTO position on this issue and that the initially published USPTO form (PTO/SB/36) is not now acceptable as notice under 35 U.S.C. §122(b)(2)(B)(iii) as it did not include the proper notification of foreign filing, I immediately began searching the files of this firm for any affected cases and then prepared this petition. Accordingly, this late filing of the notice of foreign filing was not intentional. Applicants and their attorneys respectfully request that this petition is granted and notice of such is promptly returned to Applicants' attorneys.

Respectfully submitted,  
HAVERSTOCK, & OWENS LLP

Dated: 6-3-03

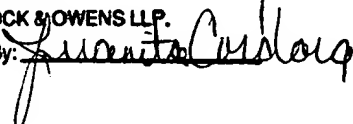
By:   
Thomas B. Haverstock  
Reg. No. 32,571

Attorneys for Applicant

**CERTIFICATE OF MAILING (37 CFR § 1.8(a))**

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the:  
Commissioner for Patents, P.O. Box 1450  
Alexandria, VA 22313-1450

- 2 -

HAVERSTOCK & OWENS LLP.  
Date: 6-3-03 By: 

DAE\$  
PATENT

Attorney Docket No.: AVALUC-01800

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Louis Bouchard

Serial No.: 09/842,747

Filed: April 25, 2001

For: **MAILBOX ACCESS MECHANISM  
OVER LOW-BANDWIDTH, HIGH-  
LATENCY WIRELESS  
NETWORKS**

) Group Art Unit: 2153

) Examiner:

**TRANSMITTAL LETTER**) 162 N. Wolfe Road  
) Sunnyvale, CA 94086  
) (408) 530-9700**Mail Stop Petition**Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313**RECEIVED**

JUN 09 2003

OFFICE OF PETITIONS

Sir:

Enclosed please find Petition under 37 C.F.R. 1.181 and 35 U.S.C. 122 (b) (2) (B) (iii) for Acceptance of Late Notice of Foreign Filing and Rescission of Previous Non-publication request (35 U.S.C. 122 (b) (2) (B) (iii) Notice of Foreign Filing (35 U.S.C. 122 (b) (2) (B) (iii) for filing with the U.S. Patent and Trademark Office. Also attached is a check in the amount of \$1300.00 to cover the Petition Fee.

The Commissioner is authorized to charge any additional fee or credit any overpayment to our Deposit Account No. 08-1275. **An originally executed duplicate of this transmittal is enclosed for this purpose.**

Respectfully submitted,

HAVERSTOCK &amp; OWENS LLP

Dated: 6-3-03By: Thomas B. HaverstockThomas B. Haverstock  
Reg. No.: 32,571

Attorneys for Applicant

## CERTIFICATE OF MAILING (37 CFR § 1.8(a))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the:  
Commissioner for Patents, P.O. Box 1450  
Alexandria, VA 22313-1450

- 1 -

HAVERSTOCK &amp; OWENS LLP.

Date: 6-3-03By: Thomas B. Haverstock



# 6

PATENT  
Attorney Docket No.: AVALUC-01800

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Louis Bouchard

Serial No.: 09/842,747

Filed: April 25, 2001

For: **MAILBOX ACCESS MECHANISM  
OVER LOW-BANDWIDTH, HIGH-  
LATENCY WIRELESS  
NETWORKS**

Group Art Unit: 2153

Examiner:

**RESCISSION OF PREVIOUS NON-  
PUBLICATION REQUEST  
(35 U.S.C. 122(b)(2)(B)(ii))  
AND, IF APPLICABLE,  
NOTICE OF FOREIGN FILING  
(35 U.S.C. 122(b)(2)(B)(iii))**162 North Wolfe Road  
Sunnyvale, CA 94086  
(408) 530-9700Mail Stop PG Pub  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**RECEIVED**  
JUN 09 2003

OFFICE OF PETITIONS

Sir:

A request that the above-identified application not be published under 35 U.S.C. 122(b) (non-publication request) was included with the above-identified application on filing pursuant to 35 U.S.C. 122(b)(2)(B)(i). This request was previously rescinded on April 15, 2002.

I hereby also provide notice that a notice of foreign filing or international filing is or will be required by 35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c). This notice is being submitted with a Petition For Acceptance Of Late Notice Of Foreign Filing, a copy of which is attached hereto.

Respectfully submitted,  
HAVERSTOCK & OWENS LLPDated: 6-3-03By: Thomas B. HaverstockThomas B. Haverstock  
Reg. No. 32,571

Attorneys for Applicant

## CERTIFICATE OF MAILING (37 CFR § 1.8(a))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the:  
Commissioner for Patents, P.O. Box 1450  
Alexandria, VA 22313-1450

- 1 -

HAVERSTOCK & OWENS LLP.  
Date: 6-3-03 By: Thomas B. Haverstock